



Virginia
Regulatory
Town Hall

Periodic Review and Retention of Existing Regulations Agency Background Document

Agency Name:	State Board of Social Services
VAC Chapter Number:	22 VAC 40-60
Regulation Title:	Standards and Regulations for Licensed Adult Day Care Centers
Action Title:	Periodic Review
Date:	June 18, 2003

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to retain an existing regulation.

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

The regulation sets forth standards that are intended to protect the health, safety, welfare and individual rights of participants of adult day care centers. The regulation consists of eight parts: General Provisions; Administration; Personnel; Supervision; Buildings and Grounds; Admission, Retention and Discharge; Programs and Services; and Emergency Preparedness.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

Section 63.2-1733 of the Code of Virginia gives the State Board of Social Services authority to adopt and enforce regulations to protect the health, safety, welfare, and individual rights of participants of adult day care centers and to promote their highest level of functioning. The authority is mandatory. The regulation does not exceed the minimum requirements of the state mandate.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Public comments were received from 6 persons. Five commenters were associated with licensed adult day care centers and one was a licensing inspector.

The comments were extremely positive and supportive of the adult day care center regulation. All commenters associated with licensed centers felt strongly that the regulation is necessary for the safety and well-being of participants. One stated that, "Far from being onerous, these regulations are a tremendous aid to providing quality adult day care." Another stated that, "Caregivers need to be sure the care environment is safe and appropriate for loved ones; elimination of [adult day care center] regulations would remove the best assurance caregivers have that the center has met a universal set of standards." Another stated, "The standards and regulations for adult day care are actually higher in some areas than those for a nursing home or assisted living facility and I feel that sets us apart from other forms of long-term care." The comments from the licensing inspector were mainly minor editing suggestions that would not alter the intent of the regulation. The licensing inspector also made a suggestion to change the numbering system, which is determined by the Registrar of Regulations.

Two recommendations for change were made by some of the adult day care centers commenters. One was to bring testing for tuberculosis in line with CDC recommendations and the other was to extend the time between when a participant has a physical examination and the date of admission to the center. The Department of Social Services (department) is aware that some polices regarding TB screening have been changed by the Department of Health since this regulation was amended three years ago. Department staff have been working with Department of Health personnel regarding these changes, and the recommended changes can be implemented for adult day care centers without having to amend the regulation if the Department of Health staff recommend that we do so.

The second recommendation, to allow more time (90 days suggested) between a participant's securing a physical examination and his or her admission to the center, will also be discussed with Department of Health staff. The requirement for having to secure a physical examination report within 30 days prior to acceptance for admission or within 30 days prior to admission concurs with the requirement for medical reports for residents of assisted living facilities.

Frequently, when a participant is being admitted to an adult day care center, health care needs may be changing rapidly and a medical report should be as current as possible. There are no plans to amend this requirement at this time, but it will be considered at a later time if necessary.

An informal advisory group was not formed for purposes of assisting in the periodic review. All licensed adult day care centers were contacted for comment.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. Please assess the regulation's impact on the institution of the family and family stability. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The regulation is essential to protect the health, safety and welfare of participants of adult day care centers because there has been an increase in the health care needs of participants and a decrease in the functional level and independence of these participants. Families and care givers should have increased confidence in the care being given their center participant as a result of this regulation.

The regulation is clearly written and understandable by the individuals and entities affected. There have been very few questions regarding clarity or understandability from licensees or the department's licensing staff since it became effective in July 2000.

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

There are no less burdensome or less intrusive alternatives for achieving the purpose of this regulation. The Code of Virginia mandates that regulations be adopted and enforced to protect the health, safety, welfare, and rights of participants in care.

Recommendation

Please state that the agency is recommending that the regulation should stay in effect without change.

The department is recommending that the regulation stay in effect without change.